

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re

FRANK J. CHRISTY, JR.,

No. 14-11391

Debtor(s).

Memorandum of Decision re Motion for Stay Relief

Donna Kamahele is the former spouse of Chapter 13 debtor Frank Christy. She has moved for relief from the automatic stay in order to proceed with the state court marital dissolution action pending in Sonoma County Superior Court. Christy articulates no objection to the dissolution proceedings going forward generally, but objects to allowing Kamahele to commence contempt proceedings against him.

Prior to his bankruptcy, Christy was ordered to make the mortgage payments on the family home. The order provided that he was to receive a credit against his support obligations for each mortgage payment he made. Christy failed to make the mortgage payments as ordered, but he is paying the full amount of his past due support obligations through his Chapter 13 plan. He argues that because he is paying all his support obligations to Kamahele the court should not modify the automatic stay to permit contempt proceedings.

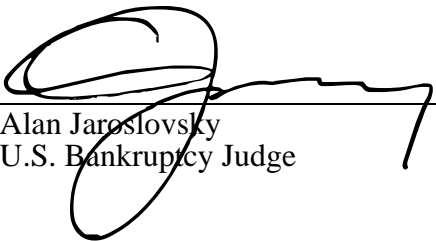
Unfortunately for Christy, there is a judicially-created exception to the automatic stay for contempt proceedings. *In re Dingley*, 514 B.R. 591, 597 (9<sup>th</sup> Cir. BAP 2014). The exception does not

1 distinguish between civil and criminal contempt, nor does it matter whether the contempt proceedings  
2 are raised by the court on its own or are prosecuted by a party. 514 B.R. at 600. While the Appellate  
3 Panel acknowledged that the exception has been extensively criticized as being wholly inconsistent  
4 with the Bankruptcy Code, it felt bound to follow Circuit authority. This court is bound as well. Even  
5 if the court were to deny Kamahele's motion, she would not violate the automatic stay by commencing  
6 contempt proceedings against Cristy in state court.

7 For the foregoing reasons, the motion will be granted. The court will enter an appropriate  
8 order.

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10 Dated: April 23, 2015

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Alan Jaroslovsky  
U.S. Bankruptcy Judge